REMARKS

The Examiner has again requested that applicant state the specific improvements of the claimed subject matter in Claims 1-6, 9-14, 17-22, and 25-29 over the disclosed prior art and indicate the specific elements in the claimed subject matter that provide those improvements. Specifically, the Examiner indicates that "the prior art that was considered is not even positively recited in the statements made by applicant, for example, USPN 6,314,460B1, Knight et al.

In response, applicant states that the references disclosed via the information disclosure statement (IDS) filed January 30, 2002, as specifically enumerated in Table 1 below, do not disclose, teach or suggest the following claimed subject matter (or similar language) found in each of the independent claims (and thus also found in each of the dependent claims):

> "collecting network traffic information utilizing a plurality of agents installed in computers distributed among a plurality of zones;
> receiving the network traffic information collected from the agents associated with each zone at a separate controller; and
> transmitting a report on the network traffic information from the controller to a computer coupled thereto via a network."

Table 1

Patent/Pub No.	Date
6,314,460	11/06/2001
6,266,694	07/24/2001
WO01/84270	11/08/2001
WO 01/55862	08/02/2001
WO 01/31539	05/03/2001

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WO 00/77687	12/21/2000
WO 00/08806	02/17/2000
WO 98/42103	09/24/1998

Beyond this statement (and that which was previously submitted), applicant does not have or cannot readily obtain the requested information, and thus offers a statement that any additional information beyond the foregoing (and which was previously submitted) is unknown or cannot be readily obtained.

The Examiner has again rejected Claims 1-6, 9-14, 17-22, 25-26, and 28 under 35 U.S.C. 103(a) as being unpatentable over Fletcher et al., USPN 6,108,782, in view of Signh et al., USPN 5,758,083.

In the Examiner's latest response, it is argued that "[b]y definition an MIB is a tree representation of management objects. Fletcher taught reporting (col. 9, lines 33-43). The claim language does not recite displaying objects in a tree representation, so applicant's arguments is not persuasive." In response, applicant has amended each of the independent claims to require the display of objects in a tree representation, in order to distinguish Fletcher in the manner suggested by the Examiner.

The Examiner further relies on Fletcher to meet applicant's previously added claim language in the following manner:

Excerpts from each of independent claims	Excerpts from Fletcher
wherein at least one zone controller chooses a port number associated with an application	"...when used with enhanced dRMON Managers, a user is provided the ability to combine ports and hosts in order to create Virtual LAN (VLAN) definitions which would cause the monitoring function to behave as though all selected hosts were on the same LAN segment being served by the same RMON probe." (col. 6, lines 53-58)
and pushes a configuration request to a plurality of the host controllers in an associated zone	"Some collector functions will now be described. In addition to performing RMON2 analysis on its own directed traffic as well as all multicast and

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	broadcast traffic the Collector performs several other functions pertain to the management or configuration of its remote agents. dRMON embodiments may be designed to interoperate with a variety of RMON Management applications and all major SNMP Management Platforms (e.g., HP OpenView) that support the original RMON MIBs. Doing so requires only that the collector be programmed to communicate with the particular management application and that filtering functions required by the management application be translatable by the collector to directives to the agent." (col. 11, lines 48-60)
and the host controllers push the configuration requests to the agents **so that the agents begin to monitor a port associated with the port number**	"Among the important functions that can be performed by agents according to various embodiments of the invention are: (1) receiving and responding to messages from the collector and configuring its operation to conform to collector instructions; ... Some collector functions will now be described. In addition to performing RMON2 analysis on its own directed traffic as well as all multicast and broadcast traffic the Collector performs several other functions pertain to the management or configuration of its remote agents. dRMON embodiments may be designed to interoperate with a variety of RMON Management applications and all major SNMP Management Platforms (e.g., HP OpenView) that support the original RMON MIBs. Doing so requires only that the collector be programmed to communicate with the particular management application and that filtering functions required by the management application be translatable by the collector to directives to the agent." (col. 8, lines 46-50; col. 11, lines 48-60)
such that monitor data is sent from the agents to the host controllers and buffered,	"The dRMON Collector receives RMON analysis and capture data from the agents and sorts, collates, and aggregates that information into a cohesive database that recreates the view a prior art RMON probe would have if the ESs were all on the same LAN segment with the prior art probe." (col. 9, lines 33-37)
whereafter the host controllers update the at least one zone controller with consolidated monitor data	"The present invention in one embodiment reduces this traffic by having a collector continuously update one or a group of simple files at the collector that contained data representing the compiled statistics of network operation. These file may be stored as simple text file. A management station or a display terminal enabled to receive and display this data can then make one request for a compiled file then and use the data in the file to display a representation of network operations. A dRMON collector, according to an embodiment of

	the invention, may also include an SNMP interface allowing it to report individual counter values as is done is prior art interfaces. One application for this embodiment would be to make the data available over an internet type network, and displayable by a web browser." (col. 18, lines 1-18)
where differences in delay times are calculated to construct an enterprise picture of latency	"There are several key advantages to various embodiments of the invention when compared to other solutions. among these advantages are scalability, affordability, true end-to-end response time monitoring, redundancy, visibility into client node, distributed architecture, and web support. ... Other embodiments are possible where the agents compute average latencies and adjust their time-stamps accordingly." (col. 7, lines 4-8; col. 12, lines 41-43)

Applicant respectfully disagrees with such mapping of the prior art to applicant's claim limitations. Specifically, applicant points to at least the emphasized (i.e. bolded) limitations in the claim chart above, where the prior art is clearly lacking, since it does not even suggest such claimed features. It appears from the manner in which the Examiner mapped the foregoing claim language to the above prior art excerpts that the Examiner has not taken into consideration the full weight of applicant's claims.

Specifically, the Examiner appears to rely on Fletcher's "collectors" to meet applicant's claimed "zone controller" and the manner in which the "zone controller" pushes configuration information. Such collectors of Fletcher, however, do not "choose ... a port number associated with an application," as required by applicant's claims. Moreover, Fletcher's collectors configure remote agents, and do not push "a configuration request to a plurality of the host controllers in an associated zone," which, in turn, "push the configuration requests to the agents so that the agents begin to monitor a port associated with the port number," as required by applicant's claims

It is purported that the foregoing exemplary deficiencies are rooted in the fact that Fletcher suggests 2-tier collector/agent framework, while applicant teaches and claims a 3-tier zone controller/host controller/agent framework, where each of the 3 tiers

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functions uniquely as claimed for the purpose of uniquely constructing an enterprise picture of latency.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck,* 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all the claim limitations as arranged in the claims.

Nevertheless, in the spirit of expediting the prosecution of the present application and bringing a quick closure to this matter, applicant has amended each of the independent claims to recite the following interaction among the components of applicant's claimed 3-tier zone controller/host controller/agent framework, which is believed to be allowable:

"wherein each host controller interfaces with at least one of the agents by determining whether a signal has been received from the at least one agent, where, in response to the signal, the at least one agent is sent commands including a first interval setting and configuration data such that the at least one agent transmits the network traffic information in a manner that is based on the configuration data and at a first time interval based on the first interval setting,

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each host controller being adapted for filtering unicast network traffic, thereby picking up flooded traffic on a domain to ensure that utilization calculations are correct;

wherein each host controller interfaces with the at least one zone controller by determining whether instructions are received from the at least one zone controller, the instructions including a second interval setting indicating a second time interval based on which the network traffic information is sent to the at least one zone controller and dictating the manner in which the at least one agent operates per the commands sent from each host controller to the agents, wherein the second interval setting is monitored and each host controller polls for the receipt of a demand over the network, the network traffic information being transmitted to the at least one zone controller in response to at least one of the demand and the cessation of the second time interval" (see all independent claims).

A notice of allowance or a specific prior art showing of each of the foregoing limitations, in combination with the remaining claim elements, is respectfully requested.

Reconsideration is respectfully requested.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 505-5100. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P064_01.306.01).

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